

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



April 19, 2001

Regulation Package 0699-13

CDSS MANUAL LETTER NO. FS-01-01

TO: HOLDERS OF THE FOOD STAMP MANUAL, DIVISION 63

Regulation Package #0699-13**Effective 4/1/01****Section 63-407**

These amendments specify that participants in unpaid community service and work experience activities under CalWORKs shall be considered to be participating in the Food Stamp Workfare Program, subject to the conditions identified in Section 63-407.241. These amendments specify that participants in unpaid community service and work experience activities are subject to all CalWORKs Welfare-to-Work (WTW) Program statutes and regulations, including WTW exemptions. However, hours of participation shall be limited to the hours of participation in unpaid community service and work experience shall be limited to the number of hours each month, determined collectively for the CalWORKs assistance unit, equal to the CalWORKs assistance unit's grant plus the assistance unit's portion of the food stamp allotment divided by the higher of the state or federal minimum wage. Handbook language refers the reader to instructions on hours of participation for community service and work experience.

The amendments clarify that food stamp sanctions will continue to apply to food stamp recipients who are participants in CalWORKs unpaid community service or work experience and include SFSP participants in the list of persons who receive food stamp sanctions when they are sanctioned for noncompliance with the work requirements of the employment program to which they are assigned.

These amendments also explain that when a person receives a WTW, unemployment compensation, or substitute program sanction, a food stamp sanction shall not also be imposed if the individual qualifies for one of the food stamp work registration exemptions and also further clarify that when a food stamp sanction is imposed and the sanctioned individual subsequently qualifies for a work registration exemption, the food stamp sanction shall end.

These regulations were adopted on an emergency basis effective April 1, 2001 and will be considered at the Department's public hearing held on May 16, 2001.

FILING INSTRUCTIONS

Revisions to all manuals will now be shown in graphic screen. The attached pages are to be entered in your copy of the Manual of Policies and Procedures. The latest prior manual letter containing Food Stamp manual changes was FS-00-04.

<u>Page(s)</u>	<u>Replace(s)</u>
178 and 179	Pages 178 and 179
181.1 through 186	Pages 181.1 through 185
200 and 201	Pages 200 and 201

Attachment

JTP

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- .217 Enrolled full-time in an institution of higher education and is a single parent with responsibility for the care of a dependent child under age 12.

This provision applies when only one of the child=s(ren=s) natural, adoptive or stepparents, regardless of marital status, is in the same food stamp household as the child(ren). ARegardless of marital status≡ means that the parent could be single (never married), a widow or widower, separated, divorced, or married and living in a separate household from the other parent.

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Example (a) If one natural parent and a stepparent are living with the child, neither the natural parent nor the stepparent could qualify for the student exemption.

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If no natural, adoptive or stepparent is in the same food stamp household as the child, another full-time student in the same food stamp household as the child may qualify for eligible student status if he or she has parental control over the child and is not living with his or her spouse.

- .22 The enrollment status of a student shall begin on the first day of the school term of the institution of higher education. Once a student enrolls in an institution of higher education, such enrollment shall be deemed to continue through normal periods of class attendance, vacation and recess unless the student graduates, is suspended or expelled or drops out.
- .221 Student eligibility criteria shall be applied on the date of the interview to all applicants who are students as defined in Section 63-406.1. The student eligibility criteria shall also be applied on the date of the interview to all applicants who are noncontinuing students in the final month of student status.
- .23 In determining whether or not adequate child care services are available as required in Section 63-406.214, the following factors shall be considered:
- .231 Accessibility of the child care facility to the child's home and school,
- .232 Convenience for the student household member and suitability of the hours of the child care with respect to the student household's member's school schedule, and
- .233 Appropriateness of the child care services to the age and special needs of the child.

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.3 Ineligible Students

Any student as defined in Section 63-406.1 who does not meet the eligibility criteria of Section 63-406.2 shall be considered an excluded household member. The income and resources of an ineligible student shall be treated in accordance with Section 63-503.45.

NOTE: Authority cited: Sections 10554 and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 271.2; 7 CFR 273.5, .5(a), .5(b)(6), (b)(7), (b)(10), and (b)(11); 7 CFR 273.10(b); Federal Register, Volume 60, Number 183, dated September 21, 1996; and 7 U.S.C. 2015(e).

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.1 Persons Required to Register

The CWD shall determine which household members are required to be registered for employment. Each household member who is not exempt by Section 63-407.2 shall be registered for employment at the time of application and once every twelve months after initial registration as a condition of eligibility, unless the household is entitled to expedited service. If the household is entitled to expedited service, household members subject to work registration shall be registered as indicated in Section 63-301.5.

.2 Work Registration Exemptions and Registration in Substitute Programs

.21 Except as specified in Section 63-407.24, the following persons are exempt from the food stamp work registration requirement:

- (a) A person younger than 16 years of age or a person 60 years of age or older. If a child has his/her 16th birthday within a certification period, the child shall fulfill the work registration requirement as part of the next scheduled recertification process, unless the child qualifies for another exemption.
 - (1) A person age 16 or 17 who is not the head of the household, or who is attending school, or enrolled in an employment training program on at least a half-time basis is exempt.
- (b) A person physically or mentally unfit for employment. If mental or physical unfitness is claimed and the unfitness is not evident to the CWD, verification shall be required. Appropriate verification may consist of receipt of temporary or permanent disability benefits issued by governmental or private sources, or of a statement from a physician or licensed or certified psychologist;

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.231 Those persons registered in a substitute program as specified in Section 63-407.23, who are deemed ineligible to participate in that program due to a change in household circumstances other than failing to comply with work registration requirements of that program, shall be subject to the work registrant requirements of the Food Stamp Program in Section 63-407.4, within 10 days from the date they lose their eligibility for that program. For treatment of persons who fail to comply with the work registration requirements of these programs see Section 63-407.54.

.24 CalWORKs Unpaid Community Service and Work Experience

Participants in unpaid community service and work experience activities under CalWORKs shall be considered to be participating in the Food Stamp Workfare Program, subject to the following:

.241 Such persons shall be subject to all CalWORKs Welfare-to-Work (WTW) Program statutes and regulations, including WTW exemptions, except that, consistent with Section 2029(a)(1) of Title 7 of the United States Code, the hours of participation shall be limited as follows:

- (a) The hours of participation in unpaid community service and work experience shall be limited to the number of hours each month, determined collectively for the CalWORKs assistance unit, equal to the CalWORKs assistance unit's grant plus the assistance unit's portion of the food stamp allotment divided by the higher of the state or federal minimum wage.

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- (b) The WTW Program regulations are located in MPP Chapter 42-700. See Section 42-711.9 and Section 42-716.111(j) for further instructions on hours of participation for community service. See Section 42-716.111(d) for further instructions on hours of participation for work experience.

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.242 Persons identified in Section 63-407.24 who are sanctioned for failing to comply with their CalWORKs WTW assignment shall be subject to the food stamp sanction requirements at Section 63-407.54.

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.3 CWD Requirements

.31 Upon reaching a determination that an applicant or other members of the applicant's household are required to be registered, the CWD shall:

.311 Explain to the applicant the work registrant requirements in Section 63-407.4 and, if assigned to the FSET Program, the requirements in Section 63-407.8, the rights and responsibilities, and the consequences of failure to comply.

(a) The applicant shall be informed that he/she may be deferred from FSET Program participation if monthly expenses identified in Section 63-407.83 exceed the allowable reimbursable amounts identified in that section.

.312 Provide a written statement of the requirements in Section 63-407.311 to each work registrant.

.313 Provide a written statement:

(a) at recertification, and

(b) when a previously exempt individual or new household member is required to be registered.

.32 Household members are considered to be registered when the registration is annotated by the CWD on an existing record designated by SDSS.

.4 Work Registrants Requirements

Persons registered for work under the Food Stamp Program or a program specified in Sections 63-407.21(c) or (e) shall:

.41 Comply with the requirements of the FSET Program, as described in Section 63-407.8, when assigned by the CWD.

63-407.42	FOOD STAMP REGULATIONS ELIGIBILITY STANDARDS	Regulations
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.42	Respond to a request for supplemental information regarding employment status or availability for work.	
.43	Report to an employer to whom referred, if the potential employment meets the suitability requirements described in Section 63-407.7.	
.44	Accept a bona fide offer of suitable employment, as defined in Section 63-407.7.	
.5	Failure to Comply; Good Cause; Notification; and Sanctions	
.51	The CWD shall be responsible for determining good cause in those instances where the work registrant has failed to comply with the requirements of Section 63-407.4.	
	In determining if good cause existed for failure to comply with any work registration or FSET Program requirements, the CWD shall consider the facts and circumstances, including information submitted by the household member involved and/or the employer. Good cause shall include circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, lack of adequate child care for children who have reached age six but are under twelve years of age [see Section 63-408.41(j)], the unavailability of transportation, or problems caused by inability of the work registrant to speak, read or write English.	
.52	Within 10 days of determining that noncompliance with any of the Food Stamp work requirements at Section 63-407.4 was without good cause, as specified in Section 63-407.51, the CWD shall issue a notice of action informing the household of the sanction being imposed on the noncompliant registrant. In addition to the requirements specified in Section 63-504.21, the notice shall contain a description of the act of noncompliance, identify the minimum length of the food stamp sanction and shall specify that if, at any time, the individual becomes exempt in accordance with Section 63-407.621, the sanction shall end and the individual may reapply for food stamps. Information shall also be included describing the action which can be taken to end the sanction, in accordance with Section 63-407.612 when the minimum sanction period identified in Section 63-407.53 is completed.	
.521	Each individual has a right to a state hearing to appeal a denial, termination or reduction of benefits due to a determination of nonexempt status, or a determination of failure to comply with the work registration or FSET Program requirements. Individuals can appeal actions such as exemption status, the type of requirement imposed, or CWD refusal to make a finding of good cause. If a state hearing is scheduled, the CWD shall provide sufficient advance notice to permit the availability, either in person or by phone as appropriate, of a representative of the component operator, if it is anticipated that such attendance will be necessary.	
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- .522 The recommended CDSS developed form to use for notification of disqualification actions is the DFA 377.10.

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- .53 For purposes of determining the appropriate sanction to apply, the CWD shall count any previous sanctions imposed on the registrant for failing to comply with the requirements of Sections 63-407.4 and .55, and Section 63-408. If the registrant qualifies for one of the exemptions listed at Section 63-407.621, during the minimum sanction period identified in Sections 63-407.531, .532 or .533, the sanction shall end and the registrant may reapply and be approved for food stamps if otherwise eligible.
- .531 The first food stamp sanction shall continue for one month or until compliance is achieved, whichever is longer.
- .532 The second food stamp sanction shall continue for three months or until compliance is achieved, whichever is longer.
- .533 The third or subsequent food stamp sanction shall continue for six months or until compliance is achieved, whichever is longer.
- .54 When an individual is sanctioned for failing to comply with the work requirements of a program as specified in Section 63-407.21(c) (Welfare-to-Work), Section 63-407.21(e) (Unemployment Compensation), Section 63-407.23 (Substitute Programs), or Section 63-407.24 (CalWORKs Unpaid Community Service and Work Experience), the individual shall also receive a Food Stamp sanction in accordance with Section 63-407.5.
- .541 The individual shall be notified of the disqualification as specified in Section 63-407.52.
- .542 When a person is sanctioned under one of the programs identified in Section 63-407.54, the following food stamp work registration exemption requirements shall apply:
- (a) A food stamp sanction shall not be imposed if the individual qualifies for one of the food stamp work registration exemptions at Section 63-407.21. Since no food stamp sanction is imposed, an instance of noncompliance is not counted for purposes of determining the length of future food stamp sanctions.

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Example:

In March, Sue receives a WTW sanction for failing to participate in a community service assignment. In reviewing her case record, the CWD learns that Sue is responsible for the care of a four-year old child and is exempt from food stamp work registration per MPP Section 63-407.21(d). Therefore, a food stamp sanction would not be imposed and Sue would remain eligible for food stamps while under the WTW sanction.

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- (b) When an individual does not qualify for one of the food stamp work registration exemptions at Section 63-407.21 and a food stamp sanction is imposed, the food stamp sanction shall end when the sanctioned individual subsequently qualifies for a work registration exemption.

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Example:

Sally is part of a five-person food stamp household and at the end of February, she receives a CalWORKs/food stamp sanction for failing to participate in a WTW assignment. In May, Sally begins regular participation in a drug rehabilitation program and qualifies for the food stamp work exemption at Section 63-407.21(f). At that time, the food stamp sanction would stop. For multiple person households, eligibility is reestablished for the previously sanctioned individual the first of the following month, if the individual is otherwise eligible (Section 63-504.353). Therefore, Sally would be eligible for food stamps effective June 1.

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- .543 When an individual identified in Section 63-407.54 regains eligibility by complying with the program requirement previously violated, the individual is again exempt from work registration. The food stamp sanction period identified in Section 63-407.531, .532 or .533 shall end and the individual shall be approved for food stamps if otherwise eligible.
 - .55 The good cause, notification, and sanction requirements identified in Sections 63-407.51, .52, and .53 shall also apply when a work registrant reduces hours worked to less than 30 per week.
 - .551 An individual identified in Section 63-407.55 shall not be subject to sanctions if, at the time hours are reduced, that person meets any of the work registration exemptions at Section 63-407.21, other than the exemption at Section 63-407.21(g).
- .6 Ending Disqualification
- .61 If an individual is otherwise eligible following completion of the minimum sanction period identified in Section 63-407.53, eligibility may be reestablished if the individual:
 - .611 Becomes exempt in accordance with Sections 63-407.21.
 - (a) This provision applies at any time during the period of disqualification.
 - .612 Complies as follows:
 - (a) If the individual was disqualified for refusal to respond to a request for supplemental information regarding employment status or availability for work, the individual shall comply with the request.

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.9 Optional Food Stamp Employment Programs

- .91 In addition to the FSET Program, operated in accordance with Section 63-407.8, counties shall be permitted to operate the Food Stamp Workfare Program in accordance with the Requirements of Title 7 of the Code of Federal Regulations, Section 273.22.

NOTE: Authority cited: Sections 10553, 10554 and 18904, Welfare and Institutions Code. Reference: Sections 10554 and 18904, Welfare and Institutions Code; 7 CFR 273.1(d)(2); 7 CFR 273.7 7 CFR 273.22(f)(3); 7 U.S.C. 2014(e); 7 U.S.C 2015(d) and (o); 7 U.S.C. 2029(a)(1); 7 U.S.C. 2029(e); 7 U.S.C. 2035; U.S.D.A. Food and Nutrition Service Administrative Notices 94-39, 97-22, 97-65, 98-33, 98-42, 98-57 and 99-05; U.S. Department of Labor guidance on FLSA, with attached U.S.D.A., Food and Nutrition Service (FNS) guidance on an SFSP, dated May 22, 1997; and Simplified Food Stamp Program approval letters from FNS to implement the provisions of an SFSP, dated May 5, 2000 and August 3, 2000.

63-408 VOLUNTARY QUIT

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A food stamp work registrant shall not be eligible for participation in the program when that individual voluntarily quits employment without good cause as specified in this section. If an individual quits a job, secures new employment that entails at least the same number of hours or the same salary and is then laid off or, through no fault of his/her own, loses the new job, the earlier quit will not form the basis of a disqualification. For the purpose of this section, employment shall mean 20 hours or more per week or weekly earnings equivalent to the federal minimum wage multiplied by 20 hours. Changes in employment status that result from reducing hours of employment while working for the same employer, terminating a self-employment enterprise or resigning from a job at the demand of the employer shall not be considered a voluntary quit for purposes of this section.

- .1 When a household files an application, the CWD shall determine whether any unemployed household member who is required to register for work, or is exempt from work registration in accordance with Section 63-407.21(g), has quit a job without good cause within 60 days before filing an application. For purposes of this section, unemployed household members include persons employed less than 20 hours per week or receiving weekly earnings less than the Federal minimum wage multiplied by 20 hours. The CWD shall process the application within the time frames specified in Section 63-301 and shall not delay benefits pending a voluntary quit or good cause determination.
- .11 If the CWD learns that a household has lost a source of earned income after the date of application, but before the household is certified, the CWD shall determine whether a voluntary quit occurred.
- .12 Upon a determination that an individual identified in Section 63-408.1 has voluntarily quit employment without good cause, the individual's application for participation shall be denied for a period of 90 days starting from the date of quit. The household shall be advised of the reason for the denial and of the individual's right to reapply and/or request a state hearing.
 - .121 Following the end of the 90-day period identified in Section 63-408.12, an individual may begin participating in the food stamp program after reapplying and being determined eligible.
 - .122 Eligibility may be reestablished prior to expiration of the 90-day period and the individual shall, if otherwise eligible, be permitted to resume participation if he/she meets one of the criteria identified in Section 63-408.6.
- .13 An individual identified in Section 63-408.12 shall not be considered to have committed an instance of noncompliance for purposes of determining the minimum length of food stamp sanctions subsequently imposed in accordance with Section 63-407.53.